

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CACHET FINANCIAL SERVICES,

Plaintiff,

v.

**1:19-CV-1181
(FJS/CFH)**

**MYPAYROLLHR, LLC; MICHAEL MANN;
VALUEWISE CORPORATION; ROSS
PERSONNEL CONSULTANTS INC.;
SOUTHWESTERN PAYROLL
SERVICES INC.; ESSQUE, INC.
(D/B/A HEUTMAKER BUSINESS ADVISORS);
and DOES 1-10,**

Defendants.

ORDER

On October 8, 2019, Plaintiff filed a motion seeking the following relief: (1) an Order granting a temporary restraining order and preliminary injunction, (2) an Order of attachment, and (3) an Order allowing expedited discovery. *See* Dkt. No. 14. On October 10, 2019, the Court held a telephone conference with Plaintiff's counsel and counsel for the named Defendants. At the conclusion of that conference, the Court instructed Plaintiff's counsel to file a proposed order for the Court's review, which Plaintiff's counsel did on October 15, 2019. *See* Dkt. No. 21.

Having considered the pleadings and submissions, as well as the arguments of counsel and concluding that Plaintiff has met the requirements for the granting of a temporary restraining order, the Court hereby

ORDERS that, pending the hearing and determination of Plaintiff's motion for a preliminary injunction, Defendants, and anyone acting in concert with them or on their behalf, are hereby

temporarily enjoined and restrained from diverting, secreting, hiding, wasting, spending, appropriating, or subverting any assets in any bank account that Defendant Mann or Defendant MyPayrollHR controls, including but not limited to the following accounts:

| BANK NAME | ROUTING NO. | LAST 4 DIGITS OF ACCT NO. | ACCOUNT NAME | AMOUNT TRANSFERRED |
|-----------------------|--------------------|----------------------------------|-----------------------|---------------------------|
| Pioneer Savings Bank | 221371372 | 0212 | MYPAYROLLHR | \$7,219,341.34 |
| Pioneer Savings Bank | 221371372 | 3648 | Primacy-Pioneer | (\$4,387,510.57) |
| Bank of America, N.A. | 021000322 | 6103 | Heutmaker | \$7,713,026.23 |
| Bank of America, N.A. | 021000322 | 6843 | ValueWise Corporation | \$7,661,261.57 |
| Pioneer Savings Bank | 221371372 | 3622 | Optix-Pioneer | (\$4,301,670.06) |
| Pioneer Savings Bank | 221371372 | 4018 | Apogee-Pioneer | (\$3,646,182.95) |
| Pioneer Savings Bank | 221371372 | 3630 | Ross Consultants | (\$4,353,976.83) |
| Pioneer Savings Bank | 221371372 | 3945 | Weitz and Associates | \$655,006.76 |
| Pioneer Savings Bank | 221371372 | 2440 | Cloud Inc. | \$660,045.85 |
| Pioneer Savings Bank | 021000322 | 6843 | OptumInsight | (\$2,509,835.33) |
| Key Bank | 021300077 | 5999 | Millennium Funding | \$415,973.00 |

| | | | | |
|------------------------------------|-----------|------|--------------------|--------------|
| Wells Fargo Bank, N.A. | 121000248 | 7099 | Weitz & Associates | \$669,746.99 |
| Wells Fargo Bank, N.A. | 121000248 | 7099 | P2B Inc. | \$849,357.19 |
| Axos Bank (f/k/a Bank of Internet) | 122287251 | 0888 | FPG BofI | \$574,758.15 |

and the Court further

ORDERS that, with regard to Plaintiff's motion for a temporary restraining order and preliminary injunction, Plaintiff shall not be required to post a bond; and the Court further

ORDERS that Plaintiff's motion for an Order of Attachment is **DENIED** in its entirety; and the Court further

ORDERS that Defendants, their agents, employees, attorneys, affiliated entities, and all persons in possession of property in which one or more of Defendants have an interest, and all persons in active concert or participation with any of the foregoing, and all persons who receive actual notice of this Order, by personal service or otherwise, are hereby **ENJOINED AND RESTRAINED**, from directly or indirectly transferring, requesting, or directing the transfer of any such property on deposit with them or held under their control; and the Court further

ORDERS that, notwithstanding anything herein to the contrary, the restraints imposed by this Order do not prevent Defendant Mann from using his personally-owned assets – but not any funds from the specific bank accounts listed in the table above – for the limited purpose of paying (1) attorney's fees and (2) daily living expenses; and the Court further

ORDERS that Plaintiff may serve, together with a copy of this Order, subpoenas upon the above-identified banks requesting documents and information concerning the above-identified

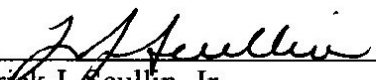
accounts in the manner provided in the Federal Rules of Civil Procedure; and the Court further

ORDERS that service of a copy of this Order, together with the papers that Plaintiff submitted in support of its motion, upon Defendants in the manner provided in the Federal Rules of Civil Procedure within five (5) business days of the docketing of this Order (and upon any newly added defendants within ten (10) days of service of the complaint), shall be deemed good and sufficient service; and Plaintiff shall file proof of such service on the docket of this action; and the Court further

ORDERS that Defendants shall file their papers in opposition to Plaintiff's motion for a preliminary injunction on or before **November 13, 2019**; and Plaintiff shall file its reply to Defendants' opposition on or before **November 20, 2019**; and the hearing on Plaintiff's motion for a preliminary injunction is scheduled for **December 4, 2019**, at **2:00 p.m.** at the James T. Foley U.S. Courthouse located at 445 Broadway, Albany, New York 12207.

IT IS SO ORDERED.

Dated: October 16, 2019
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge